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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,451	10/12/2001	Jonathan Braun	P-PM 4968	1617

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EXAMINER	
NAVARRO, ALBERT MARK	
ART UNIT	PAPER NUMBER
1645	7

DATE MAILED: 08/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)
09/976,451	Braun et al
Examiner	**Art Unit**
Mark Navarro	1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *1* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-36* is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☐ Claim(s) _____ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☒ Claims *1-36* are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-4, drawn to methods of identifying an agent for treating Crohn's disease, classified in class 435, subclass 4.

II. Claims 5-10, drawn to methods of preventing or treating Crohn's disease with an agent such as antibiotics, classified in class 424, subclass 184.1.

III. Claims 11-21, drawn to methods of preventing or treating Crohn's disease with vaccines, classified in class 514, subclass 2.

IV. Claims 22-25, drawn to methods of preventing or treating Crohn's disease with an agent that reduces the activity of pbrA, classified in class 424, subclass 184.1.

V. Claims 26-30, drawn to methods of preventing or treating Crohn's disease with an agent that reduces the activity of PFTR, classified in class 424, subclass 184.1.

VI. Claims 31-33, drawn to methods of diagnosing Crohn's disease by detecting pbrA, classified in class 435, subclass 7.1.

VII. Claims 34-36, drawn to methods of diagnosing Crohn's disease by detecting PFTR, classified in class 435, subclass 7.1.

Additionally, group III is further restricted according to MPEP 803.04 which sets forth that biological molecules with different sequences are distinct inventions. Consequently,

Applicant is restricted to a single protein (e.g., pbrA, PFTR, outer membrane protein, toxin, LPS, exotoxin A, or TonB) as well as a corresponding SEQ ID NO (i.e., SEQ ID NO: 2, 3 or 5) if selecting pbrA or PFTR. The generic claims of this group will be examined in their entirety, however, only limitations which encompass the elected antigen will be examined. Applicant is required to set forth which claims are encompassed by the elected antigen if selecting this group.

2. The inventions are distinct, each from the other because of the following reasons:

Invention I, drawn to methods of identifying agents is distinct from Inventions II-VII since it requires additional biological reagents and parameters for detecting agents which inhibit *P. fluorescens*.

Invention II, drawn to treatment with antibiotics, and Invention III, drawn to treatment with vaccines are distinct since they involve treatment with different types of molecules. Vaccines are typically composed of antigenic proteins, while antibiotics are typically organic carbon based compounds.

Invention IV, drawn to treating with agents that reduce the activity of pbrA, and Invention V, drawn to treating with agents that reduce the activity of PFTR are distinct since they involve the inhibition of distinct molecules with distinct structures.

Invention VI, drawn to methods of diagnosing via detection of pbrA, and Invention VII, drawn to methods of diagnosing via detection of PFTR are distinct since they involve the detection of distinct molecules with distinct structures.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their separate classification and their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Navarro whose telephone number is (703) 306-3225.

Mark Navarro

Primary Examiner

August 21, 2003